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HIGH COURT OF CHHATTISGARH: BILASPUR

Writ Petition No. 2394 of 2001

PETITIONER Leelagar Singh, aged about 85 years, Son of Late Rampyare Singh, R/o. Janjgir, Purani Basti, Tah. Janjgir, Distt. Champa-Janjgir (CG).

Versus

RESPONDENTS

1) The State of Chhattisgarh through Collector, Janjgir, Distt. Champa-Janjgir/

2) Tahsildar, Tahsil Janjgir, District Champa-Janjgir (CG).

3) Chief Municipal Officer, Municipal Corporation, Janjgir, Tahsil Janjgir, District Champa-Janjgir (CG).

4) Nagar Palika Parishad, Janjgir-Naila, through – President Smt. Malti Ratre, Tah. Janjgir, Distt. Champa-Janjgir (CG).

(Writ Petition under Article 226/227 of the Constitution of India)

SB: Hon'ble Mr. Satish K. Agnihotri, J.

Present: Shri Ravish Verma, counsel for the petitioner.
Shri Arvind Dubey, Panel Lawyer for the State.

ORAL ORDER
(Passed on 16-11-2007)

Learned counsel appearing for the petitioner submits that the petitioner has approached this Court against action of demolition conducted by the respondents No. 2, 3 and 4. Accordingly, the petition was filed with the following prayer.

"(i) To restrict the respondents to demolish the constructed area and Badi portion of the petitioner and to take action in accordance with the law.

(ii) Issue writ in the nature of mandamus commanding the respondents to stop the action of demolition without further

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loss of time and act in accordance with the provision of Municipal Corporation Act and Revenue Code.

(iii) Damages, caused by demolition, in action of arbitrary manner by the respondents.

(iv) Grant any other relief which may be deemed just and proper by the Hon' ble Court.

(v) Award, cost of the petition."

2) Admittedly, no interim relief was granted and according to learned counsel appearing for the petitioner, demolition had already taken place, except small portion of the structure in dispute. Learned counsel appearing for the petitioner further submits that since the property in dispute has been demolished as removal of alleged encroachment without issuing show cause notice, the original structure be restored to the petitioner or the petitioner be granted appropriate compensation for loss of his structure.

3) Be that as it may, there seems to be a dispute with regard to the owner-ship of the property. According to learned counsel appearing for the State, it was a case of encroachment of the Government land. This court cannot decide the question of disputed facts with regard to the owner-ship or possession of the property. Further, this Court can also not direct to assess the compensation and pay to the petitioner. The petitioner is at liberty to move appropriate forum for declaration of title and possession of property and further for compensation, if so advised.

4) In view of the foregoing, this petition has become infructuous and the same is disposed of. However, liberty is reserved to the petitioner to take recourse to any other forum that may be available to him under the provisions of law.

Sd/-
Satish K. Agnihotri
Judge

raju